

**DECISION**

29529

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-216551

**DATE:** October 15, 1984

**MATTER OF:** Castle/Division of Sybron Corporation

**DIGEST:**

A protest to GAO concerning alleged solicitation defects is untimely filed where the firm protested to the contracting activity prior to the closing date for receipt of best and final offers but did not protest to GAO within 10 working days after the closing occurred. Where an agency does not take corrective action as requested, a proposal closing constitutes initial adverse action on the agency-level protest.

Castle/Division of Sybron Corporation protests that certain alleged defects exist in request for proposals No. DADA16-84-R-0026 issued by the Department of the Army. We dismiss the protest.

Castle initially filed a protest with the contracting activity before the August 29, 1984 closing date for receipt of best and final offers. However, the firm's subsequent protest to this Office was not filed (received) until September 26. Our Bid Protest Procedures at 4 C.F.R. § 21.2(a) (1984) provide that if a protest is filed initially with a contracting activity, a subsequent protest to this Office must be filed within 10 working days after the protester has actual or constructive knowledge of initial adverse agency action, which includes knowledge that the agency has proceeded with a proposal closing in the face of the protest. See Ingersoll-Rand Co., Engineered Pump Division, B-207001, July 12, 1982, 82-2 CPD ¶ 40. We understand that the closing for receipt of best and final offers occurred as scheduled, despite the protest to the agency. Since Castle's protest to this Office was filed more than 10 working days after the August 29 closing, it is clearly untimely and will not be considered. See Central Air Service, Inc., B-213205, Feb. 6, 1984, 84-1 CPD ¶ 147.

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The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel